

BIALA PENINSULA INCORPORATED CONSTITUTION

In accordance with the Associations Incorporation Act 1981 (Vic.)

1. Name

The name of the incorporated association is BIALA PENINSULA INCORPORATED (the Association).

Biala Peninsula Incorporated is a not-for-profit early intervention service.

2. Purposes of the Association

In partnership with families and carers, Biala Peninsula provides early childhood intervention programmes for children with developmental delay or disability, to improve their skills to participate at home and in the community.

Biala Peninsula aims to achieve this by (but not limited to):

- a) designing programs to meet the individual needs of each child and focused on supporting the child in their natural environments, in their everyday experiences and activities
- b) providing parents and families with the knowledge, skills and support to meet the needs of their child and to optimise the child's development and ability to participate in family and community life
- c) facilitating parent-to-parent communication and support where possible
- d) providing high quality, evidence-based, responsive, family-centred services
- e) working in collaboration with other specialist and universal services
- f) maintaining a skilled, effective and committed workforce with expertise in early childhood education, occupational therapy, physiotherapy, psychology, speech pathology, music therapy and family counseling
- g) advocating for ongoing support for all children with a disability and their families
- h) advocating for timely access to services for children with a disability
- i) raising awareness within the general community of the need to promote inclusion and participation of all children and their families in all aspects of life.

3. Definitions and interpretation

3.1 Definitions

In this constitution, unless the contrary intention appears;

'Act' means the **Associations Incorporation Act 1981 (Vic.)**;

'Association' means Biala Peninsula Incorporated;

'Board' means the Board of Management of the Association being Biala Peninsula Incorporated;

'Early Childhood Intervention Service' means a service that supports children with a disability or developmental delay from birth to school entry and their families. Early childhood intervention services provide special education, therapy, counseling, service planning and coordination, assistance and support to access services such as kindergarten and child care;

'Financial year' means year ending 30 June;

'General meeting' means a general meeting of members convened in accordance with the Associations Incorporation Regulations 1998;

'Ordinary meeting' means regular meetings of the Board of Management;

'Member' means a member of the Association;

'Officer or office bearer' means President, Vice-President, Treasurer or Secretary of the Board of Management;

'Ordinary member of the Board' means a member of the Board of Management who is not an officer of the Association under rule 10.3(a);

'Regulations' means regulations under the Act;

'Relevant documents' means records or other documents, however compiled, recorded or stored, that relate to the incorporation and management of an incorporated association, including membership records, accounts, accounting records and documents relating to transactions, dealings, business or property of the Association.

'Secretary of Biala Peninsula Incorporated' is a reference -

(a) to a person who holds office under these rules as Secretary of the Association and/or

(b) in any other case, to the Public Officer of the Association.

'Sub-Committee' means a sub-committee of Biala Peninsula Incorporated established by the Board of Management of the Association to further the work of Biala Peninsula Incorporated.

3.2 Interpretation

- a) a word or expression in the singular includes the plural, and the plural includes the singular;
 - b) headings are for convenience only and do not affect the interpretation of these rules;
 - c) if a word or phrase is defined, other grammatical forms of that word or phrase have corresponding meanings;
 - d) a reference to one gender includes all genders;
 - e) a reference to legislation, a regulation or a standard includes:
 - (1) any subordinate legislation made under legislation; and
 - (2) any modification or replacement of the legislation, regulation or standard or of any subordinate legislation made under legislation;
 - f) a reference to these rules or the Statement of Purposes, or to a provision of these rules or the Statement of Purposes, includes any modification or replacement of them;
 - g) a Member is to be taken to be present in person at a general meeting if the member is present in person or by proxy;
 - h) where the approval of the Board of Management is required under these rules or an act, matter or thing is subject to the approval of the Board of Management under these rules, then unless otherwise expressly stated in these rules, that approval or determination can be withheld or made by the Board of Management as it sees fit in its absolute discretion, and the Board of Management is entitled to make its approval or determination subject to any condition as it sees fit in its absolute discretion;
 - i) when introducing an item or a list of items, the use of the word 'including' or 'includes' does not limit the meaning of the words to which the list relates to those items, or to items of a similar kind; and
 - j) where a power is granted to a person or an office, unless express provision is made to the contrary in the Act, the Regulations, these rules or the Association Regulations, that power may be exercised by that person or the person occupying that office:
 - (1) at any time; and
 - (2) from time to time.
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4. Powers

For the purpose of carrying out the Association's purposes, the Association may:

- a) engage in activities conducive to the attaining of its purposes.
- b) join, affiliate or associate with any organization having similar or related aims and objects to Biala Peninsula Inc.
- c) raise funds and invite and receive contributions, grants, distributions of income or capital, gifts (by will or otherwise), subscriptions, fees, loans and deposits from any person.
- d) expend monies and do all other things that it considers desirable to promote the Association's purposes.
- e) engage, dismiss or suspend any employee, agent, contractor or professional person.
- f) construct, improve, maintain, develop, work, manage and control real or personal property and enter into contracts and agreements.

5. Income. Property and Accounts

- a) The income and property of Biala Peninsula Incorporated shall be applied solely towards the promotion of the purposes set out in the Constitution of Biala Peninsula Incorporated. No part of the income or property of Biala Peninsula Incorporated will be paid directly or indirectly to members of Biala Peninsula Incorporated except as permitted by and in accordance with the Associations Incorporation Act 1981 (Victoria).
- b) All monies received by Biala Peninsula Incorporated shall forthwith be paid into a bank(s) into an account(s) to be kept in the name of Biala Peninsula Incorporated.
- c) Cheques, drafts, bills of exchange/promissory notes and other negotiable instruments drawn on account of Biala Peninsula Incorporated shall be signed by two (2) qualified persons. A qualified person is an office-bearer of the Board of Management, or an employee of Biala Peninsula Incorporated authorized to do so by resolution of the Board of Management of Biala Peninsula Incorporated.
- d) The Honorary Treasurer shall collect and receive all monies due to Biala Peninsula Incorporated and make all payments authorised by Biala Peninsula Incorporated and shall keep correct accounts and books showing the financial affairs of Biala Peninsula Incorporated with full details of all receipts and expenditure connected with the activities of Biala Peninsula Incorporated.
- e) The financial year of Biala Peninsula Incorporated means the year ending 30 June unless otherwise determined by the Board of Management of Biala Peninsula Incorporated.
- f) The accounts of Biala Peninsula Incorporated shall be audited annually by a qualified auditor who is not a member of Biala Peninsula Incorporated and who shall be appointed annually at the Annual General Meeting of Biala Peninsula Incorporated. If an appointment of an auditor is not made at the Annual General Meeting of Biala Peninsula Incorporated, the Board of Management shall appoint an auditor for the current financial year.
- g) The Honorary Treasurer shall each year prepare for presentation at the Annual General Meeting of Biala Peninsula Incorporated a financial statement and balance sheet which shall be duly audited.
- h) The funds of Biala Peninsula Incorporated shall be derived from government grants, annual subscriptions, donations and such other sources as the Board of Management of Biala Peninsula Incorporated determines.
- i) An audited copy of the financial statement and annual report of Biala Peninsula Incorporated will be made available to all financial members of the Association.
- j) Except as otherwise stated in these rules, the Secretary must keep in his/her custody or under his/her control all books, documents and securities of Biala Peninsula Incorporated.

- k) All accounts, books, securities and any other relevant documents of Biala Peninsula Incorporated must be made available for inspection free of charge upon request to any financial member of Biala Peninsula Incorporated.
- l) The Public Officer must lodge with Consumer Affairs Victoria within five (5) months of the end of Biala Peninsula Incorporated's financial year detailed statements as required by the Associations Incorporation Act 1981 (Victoria).

6. Membership

6.1 Application for membership

A person who applies and is approved for membership as provided in these rules is eligible to be a member of the association on payment of the annual subscription determined by the Board of Management and payable under these rules at the time of application.

Automatic membership of the association is granted to parents of children using the services upon payment of fees.

A person who wishes to become a member of the Association may apply in writing on the appropriate application for membership and lodge the application with the Secretary of the Association or his/her designated representative.

As soon as practicable after receipt of the application, the secretary must refer the application to the Board of Management or any sub-Board formed to consider membership applications.

The Board of Management or sub-Board determines whether to approve or reject the application.

If the Board of Management approves the application for membership, the secretary must as soon as practicable;

- (a) notify the applicant in writing of the approval for membership; and
- (b) request payment within 28 days of notification of the sum payable under these rules as the first year's annual subscription

The secretary must, within 28 days after receipt of the amount payable, enter the applicant's name in the register of members.

An applicant for membership becomes a member and is entitled to exercise the rights of membership upon inclusion of his/her name in the register of members.

If the Board rejects the application the Board must, as soon as practicable, notify the applicant in writing that the application has been rejected. The Board of Management need not give any reason for rejecting an application.

A right, privilege or obligation of a person by reason of membership of the association;

- (a) is not capable of being transferred or transmitted to another person; and
- (b) terminates upon cessation of membership whether by death, resignation or otherwise.

The annual subscription is determined by the Board of Management and is due and payable before the Annual General Meeting in any year.

6.2 Register of Members

The secretary must keep and maintain a register of members containing;

- (a) name and address of each member; and
- (b) the date each member's name was entered in the register.

The register is available for inspection free of charge by any member at the Registered Office on giving reasonable notice to the Board of Management.

A member may make a copy of entries in the register.

6.3 Cessation of Membership

A person immediately ceases to be a Member if the person:

- a) dies;
- b) resigns as a Member by giving written notice to the Secretary;
- c) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under a law relating to mental health;
- d) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors;
- e) is expelled under rule 6.4; or
- f) becomes, if the Board of Management so decides in their absolute discretion, an untraceable Member because the person has ceased to reside at, attend or otherwise communicate with his or her address on the Register of Members.

The secretary must record in the register of members the date on which the Member ceased to be a Member.

6.4 Expulsion

a) The Board of Management may by resolution expel a Member from the Association if, in their absolute discretion, they decide it is not in the interests of the Association for the person to remain a Member.

b) If the Board of Management intends to propose a resolution under rule 6.4 (a), at least two weeks before the meeting at which the resolution is to be proposed, they must give the Member written notice:

- (1) stating the date, place and time of the meeting;
- (11) setting out the intended resolution and the grounds on which it is based; and
- (111) informing the Member that he or she or a representative may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote

6.5 Grievance procedure

- a) Any dispute under these rules between a Member and another Member or between a Member and the Association must, unless the parties otherwise agree, be dealt with by the procedure in this rule 6.5.
- b) Any party to a dispute between Members, may refer the dispute to the Board of Management for determination or mediation.
- c) The Board of Management may, subject to paragraph (e) below, act as a mediator or may appoint a third party as a mediator.
- d) If there is a dispute between the Association and a Member, either party may require the dispute be referred to mediation.
- e) The mediator must be:
 - i. a person chosen with agreement between the parties to the dispute; or
 - ii. in the absence of an agreement within 14 days of a party requiring mediation;
 - (A) in the case of a dispute between a Member and another Member, a person appointed by the Board of Management; or
 - (B) in the case of a dispute between a Member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- f) A Member can be a mediator.
- g) The mediator cannot be a party to the dispute.
- h) Any party to a dispute may appoint any person to act on behalf of that party in the process of determination by the Board of Management or mediation.
- i) The Board of Management, in determining the dispute (if requested under rule 6.5(b)) or a mediator, in conducting the mediation, must:
 - i. give the parties to the dispute every reasonable opportunity to be heard; and
 - ii. allow due consideration by all parties of any written statement - submitted by a party; and
 - iii. ensure that natural justice is accorded to all parties to the dispute throughout the process.
- j) If the mediation process does not result in the dispute being resolved, within a reasonable time as decided by the mediator, or failing this decision, within two months of the party requiring mediation, any party to the dispute may seek to resolve the dispute in accordance with the Act or otherwise at law.
- k) A determination made by the Board of Management under this rule is final and binding on all parties to the dispute.

Annual General Meetings

7.1 Generally

- a) The Association must in each calendar year convene an Annual General Meeting of the Members within 5 months of the end of the financial year.
- b) The Annual General Meeting must be specified as such in the notice convening it.

7.2 Business of an Annual General meeting

The ordinary business of the Annual General Meeting shall be;

- (a) to confirm the minutes of the previous AGM and of any general meeting held since that meeting; and
- (b) to receive from the Board of Management reports upon the transactions of the association during the preceding financial year; and
- (c) to elect the office bearers/ordinary members to the Board of Management of Biala Peninsula Incorporated.
- (d) to receive and consider the financial statement submitted by the Association in accordance with section 30(3) of the Act.

The AGM may conduct any special business of which notice has been given in accordance with these rules.

8. General Meetings

8.1 Terminology

All general meetings (other than the Annual General Meeting) may be called general meetings, or special or extraordinary general meetings, as the Board of Management or the Members convening a meeting decide.

8.2 Board of Management convening a general meeting

The Board of Management may, whenever it thinks fit, convene a general meeting.

8.3 Members convening a general meeting

- a) The Board of Management must, on the written requisition of Members representing at least 5 percent of the total number of Members entitled to vote, convene a general meeting.
- b) The requisition for a general meeting must:
 - (1) state the objects of the meeting;
 - (11) be signed by the Members making the requisition: and
 - (111) be sent to the Registered Office,and may consist of several documents in like form, each signed by one or more of the Members making the requisition. The Secretary must include the business referred to in those objects in the general meeting convened under this rule 8.
- c) If the Board of Management does not cause a general meeting to be held within one month after the date on which the requisition is received at the Registered Office, the Members making the requisition, or any of them, may convene a general meeting to be held no later than three months after that date.
- d) A general meeting convened by Members under this rule 8.3 must be convened in the same manner, as nearly as possible, as that in which general meetings are ordinarily convened by the Board of Management. The Association must reimburse all reasonable expenses incurred by Members in convening the general meeting.

8.4 Notice of general meetings

The secretary, at least 14 days, or if a special resolution has been proposed at least 21 days, before the date fixed for a general meeting, must ensure that each member is sent a notice stating the place, time and date of the meeting and the nature of the business to be conducted.

The notice must be sent

- (a) delivering the notice to the member personally; or
- (b) by pre paid post to the address appearing on the register of members;
or
- (c) if the member requests, by facsimile or electronic transmission.

No business other than that set out in the notice may be conducted at the meeting.

A member intending to bring any business before a meeting must notify the Secretary of that business in writing, the Secretary must use reasonable endeavours to include that business in the notice calling the general meeting. If this is not practicable, the business must be included in the notice calling the following general meeting.

8.5 Quorum at general meetings

No business may be conducted at a general meeting (except the election of a Chairperson of the meeting and the adjournment of the meeting) unless a quorum is present.

Five members with full voting rights, personally present or by proxy, constitutes a quorum for the conduct of business at general meetings.

If within half an hour of the appointed time a quorum is not present;

- (a) in the case of a meeting convened upon request of members - the meeting must be dissolved; or
- (b) in any other case the meeting shall stand adjourned to the same day and time and (unless otherwise specified by the Chairperson at the time of adjournment) the same place in the next week.

If at the adjourned meeting a quorum is not present within half an hour of the appointed time the members present, being not less than three, shall be a quorum.

8.6 Chairperson at general meetings

The President, or in the President's absence, the Vice-President, shall preside as Chairperson at each general meeting.

In the absence or unavailability of President or both, members will select one of their number to preside as Chairperson.

8.7 *Adjournment of meetings*

The person presiding may, **with** the consent of the majority of members, adjourn a meeting from time to time and place to place.

No business may be conducted at an adjourned general meeting other than the unfinished business from the meeting that was adjourned.

Only if a meeting is adjourned for 14 days or more, must notice of the adjourned meeting be given as previously stated for general meetings.

8.8 Voting at general meetings

A member has one vote only.

All votes must be given personally or by proxy.

In the case of equality of voting on a question, the Chairperson is entitled to exercise a second, casting vote.

Members who have not paid annual membership are not entitled to vote. (unfinancial members).

8.9 Poll at general meetings

If at a meeting a poll on any question is demanded by not less than 3 members, it must be taken at the meeting in such manner as the Chairperson may direct and the resolution of the poll shall be deemed to be a resolution of the meeting on that question.

A poll that is demanded on the election of a Chairperson or on a question of an adjournment must be taken immediately and a poll that is demanded on any other question must be taken at such time before the close of the meeting as the Chairperson may direct.

8.10 Determination of carried resolution

On a show of hands the Chairperson will declare the resolution:

carried; or

carried unanimously; or

carried by particular majority; or

lost:

An entry to that effect made in the minute book is evidence of the fact without proof of the number or proportion of the votes recorded in favour or against the resolution.

8.11 Proxies

Each Member is entitled to appoint another Member as a proxy by notice given to the Secretary no later than 24 hours before the time of the meeting in respect of which proxy is appointed.

9. Alteration of Constitution

Any alteration to the constitution may be made, subject to section 51 of the Act, by special resolution at the AGM or a special meeting convened for that purpose.

At least 21 days notice must be given to members of any meeting at which the proposed alteration to the constitution is to be considered.

10. Board of Management

10.1 Power to manage the Association

The affairs of the association will be managed by a Board of Management.

The Board shall control and manage the business and affairs of the Association and may, subject to the Associations Incorporation Act 1981 and Regulations under that Act, exercise all such powers and functions as may be exercised by an association other than those powers and functions that are required under the rules to be exercised by general meetings of the members, and subject to the Act and Regulations has power to perform all such acts and duties as appear to the Board to be essential for the proper management of the business and affairs of the association.

10.2 Composition of the Board of Management

- a) The Board of Management will consist of:
 - (1) President
 - (2) Vice-president
 - (111) Secretary
 - (1V) Treasurer
 - (V) 7 ordinary Members to include:
 - Manager of Biala Peninsula Incorporated (non-voting position)
 - Biala Peninsula staff member (non-voting position)
- b) The Board of Management may appoint any person as an Officer or a member of the Board, either to fill a vacancy or as an addition to the existing members of the Board, and the person will hold that position until the conclusion of the next Annual General Meeting.
- c) The preferred composition of membership will be as follows:
 - 1 x member with financial qualifications
 - 1 x member with legal qualifications
 - 1 x member with general management qualifications/experience
 - 1 x member with related community services experience of strategic importance such as early years or local government
 - 1 x member with communications or marketing experience qualifications
 - General members that include a mix of Biala parents both past and present.

10.3 Term of Office

Subject to these rules, each member of the Board of Management must:

- a) be elected to take office at the Annual General Meeting of the Association, and will take effect from the end of that Annual General Meeting; and
- b) hold office until the end of the Annual General Meeting two years following the date of his or her election, but may be re-elected to any vacant position on the Board of Management.

10.4 Election of Board of Management

- a) Nominations for candidates for election as Officers or as members of the Board of Management must be:
- (1) in the form set out in Appendix 2 or any other form approved by the Board of Management at that time;
 - (2) signed by two Members, one as proposer and the other as seconder;
 - (3) accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and
 - (4) delivered to the Secretary not less than 7 days before the date fixed for the Annual General Meeting.
- b) A candidate for election as an Officer or a member of the Board of Management must be a Member of the Association at the time of the nomination and the time of the election.
- c) If insufficient nominations are received to fill all vacancies on the Board, the candidates nominated will be deemed to be elected, and further nominations must be requested at the Annual General Meeting in respect of particular vacant positions for which nominations have not been received.
- d) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated will be deemed to be elected.
- e) If the number of nominations in respect of any position on the Board exceeds the number of vacancies to be filled, a ballot must be held at the Annual General Meeting in the manner directed by the President.
- f) A nomination of a candidate for election under this rule 10.4 is not valid if that candidate has already been nominated to another office for election at the same election.

10.5 Vacancy of office on the Board of Management

The position of a Board member, including an Officer, becomes vacant if the person:

- a) becomes an insolvent under administration within the meaning of the *Corporations Law*
- b) becomes of unsound mind, or a person whose person or estate is liable to be dealt with under the law relating to mental health;
- c) is convicted of an indictable offence punishable by imprisonment;
- d) resigns as an Officer or as a member of the Board by written notice to the Board; or
- e) fails to attend 3 consecutive meetings of the Board without leave of the Board (whether given before or after that absence) and is removed from office by resolution of the Board of Management.

10.6 Use of information or position

- a) A member of the Board of Management must not:
 - (1) while a member of the Board; and
 - (2) after ceasing to be a member of the Board, knowingly or recklessly make improper use of information acquired by virtue of his or her position in the Association so as to:
 - (3) gain, directly or indirectly, any pecuniary benefit or material advantage for himself or herself or any other person; or
 - (4) cause detriment to the Association.

- b) A member of the Board of Management must not knowingly or recklessly make improper use of his or her position in the incorporated association so as to:
 - (1) gain, directly or indirectly, any pecuniary benefit or material advantage for himself or herself or any other person; or
 - (2) cause detriment to the Association.

10.7 Disclosure of interests

- a) A member of the Board of Management who has direct or indirect pecuniary interest in a contract, or proposed contract, with the Association must:
 - (1) as soon as he or she becomes aware of his or her interest, disclose the nature and extent of his or her interest to the Board of Management; and
 - (2) disclose the nature and extent of his or her interest in the contract, or proposed contract, in the statement submitted under section 30(3) of the Act by the Association to the Members at the next Annual General Meeting.

- b) Rule 10.7(a) does not apply in respect of a pecuniary interest that exists only by virtue of the fact that the member of the Board:
 - (1) is an employee of the Association;
 - (11) is a member of a class of persons for whose benefit the Association is established; or
 - (111) has the pecuniary interest in common with all or a substantial proportion of the Members.

- c) Subject to rule 10.8(b) if a member of the Board of Management discloses a pecuniary interest in a contract, or a proposed contract, in accordance with rule 10.8(a) or his or her interest is not such as need be disclosed under rule 10.8(a):
 - (1) the contract is not liable to be avoided by the Association on any ground arising from the fiduciary relationship between the member of the Board and the Association; and
 - (2) the member of the Board is not liable to account for profits derived from the contract.

- d) Despite anything to the contrary in these rules, a member of the Board of Management may not act as auditor of the Association.

10.8 Voting on contract in which member of the Board of Management has interest

- a) A member of the Board of Management who has any direct or indirect pecuniary interest in a contract, or proposed contract, with the Association must not take part in any decision of the Board with respect to that contract but may, subject to these rules, take part in any deliberations with respect to that contract or proposed contract.
- b) Rule 10.8(a) does not apply in respect of a pecuniary interest:
 - (1) that exists only by virtue of the fact that the member of the Board is a member of a class of persons for whose benefit the Association is established; or
 - (11) that the member of the Board has the pecuniary interest in common with all or a substantial proportion of the Members.

10.9 Implied validity

Despite any other provision in these rules, all decisions and actions at a meeting of the Board of Management, and all actions taken by the Board or a person acting as a Board member, are as valid as if every person acting as a Board member had:

- a) been duly appointed
- b) duly continued in office; and
- c) at all material times been fully entitled to do all things which he or she did or purported to do as a Board member,

even though it is later discovered that there is a defect in the person's appointment or continuance in office, or that person had vacated office or was not entitled to do a particular thing.

11. Proceedings of the Board of Management

11.1 Board of Management meetings

11.1.1 Subject to paragraph (b), the Board of Management may meet together and adjourn and otherwise regulate their meetings as they think fit.

11.1.2 The Board of Management must meet at least 3 times in each calendar year.

11.2 Convening meetings

Special meetings of the Board of Management may be convened by the President or by any four members of the Board.

11.3 Quorum

11.3.1 Any 4 voting members of the Board of Management constitute a quorum for transacting the business of a meeting of the Board.

11.3.2 No business may be transacted at a meeting of the Board unless a quorum is present. If within 30 minutes of the time appointed for the meeting a quorum is not present, the President may adjourn the meeting to the same place and at the same hour of the same day in the following week.

11.3.3 If the number of members of the Board at any time is not sufficient to constitute a quorum of a Board meeting or is less than the minimum number of members of the Board fixed under these rules, the remaining members of the Board must act as soon as possible to:

11.3.4 Increase the number of members of the Board to a number sufficient to constitute a quorum and to satisfy the minimum number required under these rules; or

11.3.5 convene a general meeting of the Association for that purpose, and, until that has happened, may only act if and to the extent that there is an emergency requiring them to act.

11.4 President

11.4.5 Subject to rule 11.4(2), the President must preside at each meeting of the Board.

11.4.6 If the President is absent or unwilling to act at any particular meeting of the Board, then the Vice President or any member of the Board present as decided by the Board must act as chairperson for that meeting.

11.5 Voting

11.5.5 Questions arising at a meeting of the Board are to be decided on a show of hands.

11.5.6 Each member of the Board present at a meeting of the Board (including the chairperson) is entitled to one vote. If the votes are

equal on any question, the chairperson has a second or casting vote.

11.5.7 A resolution concerning any question arising at a meeting of the Board will only be considered as passed if an ordinary majority of votes cast at the meeting in respect of that resolution are cast in favour of it.

11.6 Usual business at meetings of the Board

The usual business at a meeting of the Board is:

11.6.5 to confirm the minutes of the last meeting;

11.6.6 to deal with any items retained on the agenda from the last meeting;

11.6.7 to receive reports from the Manager on the activities of the Association;

11.6.8 to receive reports on the activities of any Sub-Committee;

11.6.9 to receive reports from Board members charged with the responsibility for agenda items;

11.6.10 to discuss correspondence received and correspondence to be sent;

11.6.11 to organise general meetings and other functions; and

11.6.12 any other business that is notified to Board members.

11.7 Observers at meetings of Board

Members and other persons, when invited by the Board, may attend meetings of the Board, but do not have voting rights and may not speak at the meeting unless permitted by the Chairperson.

11.8 Notice

The Secretary must use his or her best endeavours to give notice of each meeting of the Board (together with a proposed agenda and minutes of the previous meeting of the Board) to each Board member at least 7 days before the meeting.

11.9 Meetings convened by telephone or other electronic means

11.9.5 The contemporaneous linking together by telephone or other electronic means of a number of the members of the Board sufficient to constitute a quorum, constitutes a meeting of the Board and all the provisions in these rules relating to meetings of the members of the Board apply, so far as they can and with such changes as are necessary, to meetings of the members of the Board by telephone or other electronic means.

11.9.6 A meeting by telephone or other electronic means is to be taken to be held at the place determined by the chairperson of the meeting of the Board provided that at least one of the members of the Board involved was at that place for the duration of the meeting.

11.10 Written resolutions of the Board

a) If:

(1) all of the members of the Board (other than any Board member who disqualifies himself or herself from considering the act, matter, thing or resolution in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest), assent to a document containing a statement to the effect that an act, matter or thing has been done or resolution has been passed; and

(2) the members of the Board who assent would have constituted a quorum at a meeting of the Board held to consider that act, matter, thing or resolution,

that act, matter, thing or resolution is to be taken as having been done at or passed by a meeting of the Board.

b) For the purposes of rule 11.10(a):

1. the meeting is to be taken to have been held on the day on which, and at the time at which, the document was last assented to by a member of the Board;

2. two or more separate documents in identical terms each of which is assented to by one or more members of the Board are to be taken as constituting one document; and

3. a member of the Board may signify assent to a document by signing the document or by notifying the Association of the member's assent in person or by post, facsimile transmission, telephone or other method of written, audio or audio visual communication.

c) Where a Board member signifies assent to a document otherwise than by signing the document, the Board member must by way of confirmation sign the document at the next meeting of the Board attended by that Board member, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.

d) Where a document is assented to in accordance with rule 11.10(a), the document is to be taken as a minute of a meeting of the Board.

12. Sub-Committees

a. Delegation to Sub-Committees

The Board may delegate any of the Board powers to a Sub-Committee or Sub-Committees established by the Board, comprising the Board members and any other people (whether Members or not) that the Board decides.

b. Control of Sub-Committees

- i. The Board may name, dissolve and vary the powers and composition of a Sub-Committee as the Board thinks fit including, but not limited to, making rules in respect of the voting rights, quorum for meetings, conduct of meetings or any other matters relating to Sub-Committees, that the Board determines.
- ii. Each member of a Sub-Committee holds office on terms decided by the Board.
- iii. A Sub-Committee must exercise its powers, and generally conduct itself, in accordance with any directions given by the Board including, but not limited to, any directions concerning keeping minutes and reporting to the Board.

c. Rules apply to Sub-Committees

Subject to any directions by the Board, the provisions of these rules applying to meetings and resolutions of the Board apply, so far as they reasonably can and with any modifications reasonably necessary, to meetings of a Sub-Committee.

13. Secretary, Treasurer, Delegates and the Public Officer

a. Delegates

- i. The Board may from time to time appoint delegates of the Association, who may or may not be members of the Board.
- ii. The Board may delegate any of its powers or responsibilities to a delegate appointed under rule 13a.i.
- iii. Despite rule 13a.ii, the Board remains responsible for the:
 1. exercise of Board powers; and
 2. discharge of Board responsibilities,by a delegate appointed under rule 13a.i.
- iv. A delegate to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Board.

b. The Public Officer

The Board must appoint at least one Public Officer who will hold the position subject to, and have the powers provided for, under the Act and who must carry out any additional duties decided by the Board from time to time including, but not limited to, submitting the Public Officer's annual statement in the prescribed manner and form set out in the Act and/or the Regulations.

c. Secretary

The Board must appoint a person as the Secretary to:

- i. keep minutes of the resolutions and proceedings of each general meeting and each meeting of the Board in books provided for that purpose, together with a record of the names of persons present at meetings of the Board; and
- ii. carry out the powers and duties set out in these rules and as given to him or her by the Board from time to time.

The Secretary may or may not be a member of the Board.

d. Treasurer

The Treasurer must:

- i. collect and receive or procure the collection and receipt of all moneys due to the Association and make all payments or procure the making of all payments authorised by the Association;
- ii. keep or procure the keeping of correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association;
- iii. make regular reports to the Board regarding the financial position and affairs of the Association; and
- iv. carry out the powers set out in these rules and as given to him or her by the Board from time to time.

The Treasurer may delegate all or part of these functions to a suitably qualified or experienced person.

14. Audit

a. Appointment of auditor

The Board must appoint a qualified auditor.

b. Remuneration of auditor

The Board may fix the remuneration of the auditor from time to time.

c. Qualifications of auditor

The auditor must be:

- i. a member of the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants or any body described in section 1280 of the *Corporations Law*, and
- ii. registered as a Association auditor under section 1280 of the *Corporations Law*.

d. Role of auditor

- i. The auditor must:
 1. examine the accounts and records of Association at least once in each Financial Year; and
 2. meet with relevant Board members for these purposes at times arranged with the Board and Board members.
- ii. The auditor must draw up the audit program. In preparing the program the auditor must have regard to:
 1. current practice;
 2. the auditing standards issued from time to time by recognised Australian Accounting bodies; and
 3. any advisory notes for auditors which the Board issues from time to time.

e. Access by auditor

The auditor:

- i. must be given access to the books and accounts of Association at all times; and
- ii. may make reports to the Board as the auditor considers necessary.

f. Report by auditor

The auditor must:

- i. make a report to the members at each Annual General Meeting on every balance sheet and statement of income and expenditure tabled before each Annual General Meeting during the auditor's term of office; and

- ii. state in the report whether in his or her opinion:
 1. the balance sheet (with notes to it) and statement of income and expenditure are properly drawn up so as to give a true and fair view of the state of the Association's financial affairs for the relevant Financial Year (or other date appropriate to the period covered by that balance sheet and statement);
 2. the accounting and other records examined by the auditor have been properly maintained; and
 3. the financial statements are in accordance with the accounting standards issued from time to time by recognised Australian Accounting bodies.

15. Cheques

All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed:

- i. as the Board decides; or
- ii. failing a decision under rule 15.i, by any 2 Board members.

16. Custody and inspection of records

a. Custody of records

- i. The Board or its delegate for this purpose must keep in its, his or her custody or under his or her control, all books, documents and securities of the Association.
- ii. The accounting records must be kept at the main office of the Association or subject to the Act at such other place as the Board thinks fit.

b. Inspection of records

All books and documents of the Association must be made available for inspection by any Member who gives the Board or its delegate for this purpose reasonable notice that he or she wishes to inspect them.

17. Common seal

- i. The common seal of the Association must be kept in the custody of the Board or its delegate for this purpose.
- ii. The common seal may only be affixed to a document if:
 1. the Board authorises it, which it may do before or after the common seal is used; and
 2. the document to which the common seal is affixed is signed by any 2 members of the Board.

18. Notices

- i. A notice may be served by or on behalf of the Association on a Member by:
 1. delivering it personally;
 2. posting it by prepaid post; or
 3. facsimile/email,to the Member at his or her address shown in the Register of Members or the address or facsimile number supplied by the member for giving notices.
- ii. Where a document is posted, it is regarded as given to the person at the time at which it would have been delivered in the ordinary course of post.
- iii. No:
 1. general meeting, annual general meeting or meeting of the Board; or
 2. act, proceeding or business of any such meeting, is or will be rendered voidable or invalid merely because of:
 3. the failure of any person to receive notice of the meeting; or
 4. any other procedural irregularity.

19. Use of income and property and disposal of assets

a. Use of income and property

- i. Subject to rule 19a.ii, the income and property of the Association must be used and applied solely in promoting its purposes and exercising its powers as set out in these rules. No part of the income or property of the Association may be distributed, paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to or among the Members.
- ii. Rule 19a.1 does not prevent the payment in good faith of:
 1. reasonable and proper interest to a Member on money advanced by the member to the Association or otherwise owing by the Association to the Member;
 2. reasonable and proper charges for goods hired by the Association from a Member;
 3. remuneration of an amount not more than commercially reasonable payment to any officer or employee of the Association or to a Member or other person in return for any services actually rendered to the Association; or
 4. money representing reimbursement to any officer or employee of the Association or a Member of out of pocket expenses incurred in performing a duty for the Association.

b. Disposal of assets

- i. If on the dissolution of the Association and satisfaction of all its debts and liabilities, any money or property remains, that money or property must not be paid to or distributed among the Members, but must be given or transferred to institutions, bodies, funds or organisations:
 1. which are charitable at law; and
 2. which prohibit the distribution of income and property among its members to an extent at least as great as is outlined in rule 19.a.
- ii. The institutions, bodies, funds or organisations referred to in rule 19b.i are to be decided by the Board of Management.

20. Trading

The Association is authorised to trade in accordance with section 51 of the Act.

21. Source of funds

The funds of the Association are to be derived from subscriptions, gifts, sponsorships, grants, ticket sales and such other sources as the Board determines.

22. Association Regulations

a. Association Regulations made by Board of Management

- i. The Board may make, amend, add to, rescind and replace Association Regulations concerning any aspect of the membership, governance, management, operation and activities of the Association.
- ii. To the extent of any conflict between these rules and the Association Regulations, these rules will prevail.

b. Effectiveness and promulgation of Association Regulations

Any Association Regulation made, and any amendment, addition, rescission and replacement:

- i. has effect on and from the date it is made, unless otherwise stated in the relevant document; and
- ii. must be notified to those affected, but failure to bring it to the attention of any person will not render it or anything done in accordance with it void, voidable or ineffective.

23. Alteration of Statement of Purposes and rules

- i. These rules and the Statement of Purposes of the Association may only be altered in accordance with the Act.
- ii. The consent of the Minister is required before any material change is made to:
 1. rule 21;
 2. this rule 23; or
 3. rule 19, where the change would permit a distribution on winding up to non-charitable purposes.
- iii. A resolution making a material alteration to the Statement of Purposes or to rule 19 has no effect unless approved in writing by a Deputy Commissioner of Taxation.

24. Indemnity and insurance

a. Indemnity

To the extent permitted by law, the Association may indemnify a person who is or has been an Officer of the Association against a liability incurred by that person in his or her capacity as an Officer of the Association:

- i. to any other person; and
- ii. for costs and expenses in defending proceedings, whether civil or criminal, in which judgment is given in favour of that person or in which that person is acquitted or in connection with an application, in relation to those proceedings, in which the Court grants relief to that person,

so far as the liability is not covered by a contract of insurance taken out by any person for the benefit of that Officer.

b. Insurance

The Association may pay, agree to pay, or reimburse another person who has paid, a premium in respect of a contract insuring a person who is or has been an Officer of the Association against a liability incurred by that person as an Officer of the Association, except in circumstances prohibited by law.

25. Transitional provisions

These rules must be read and construed so that:

- i. any Board member in office immediately before the adoption of these rules will be considered to have been appointed under, and to hold office in accordance with these rules;
- ii. the Board will put in place a system so one half of the Board members will resign (and be eligible for re-appointment) at the first annual general meeting following the adoption of these rules and the remaining half will resign (and be eligible for re-appointment) at the second annual general meeting.
- iii. any Member immediately before the adoption of these rules will be considered to have obtained and to retain, full Membership in accordance with these rules;
- iv. any register maintained by the Association immediately before the adoption of these rules will be considered to be a register maintained under these rules;
- v. any regulations or by-laws made, adopted or passed before the adoption of these rules will be considered to have been made as Association Regulations under these rules;
- vi. any seal adopted by the Association before the adoption of these rules as the common seal of Association will be considered to be the common seal which the Association has adopted under these rules;
- vii. all Sub-Committees established by the Board and maintained immediately before the adoption of these rules will be considered to be Sub-Committees established under rule 12, and will be regulated as if established under rule 12; and
- viii. unless the contrary intention appears in these rules, all persons, things and circumstances appointed or created by or under the constituent documentation of the Association in force before the adoption of these rules will continue to have the same status, operation and effect after the adoption of these rules.

Appendix 1 - Application for Membership

Biala Peninsula Incorporated.

Name: _____,

Interest in early intervention services:

Address: _____

desire to become a Member of Biala Peninsula Incorporated. (the **Association**).

In the event of my admission as a Member, I agree to be bound by the Rules of the Association for the time being in force.

Signed

Date _____

Appendix 2 – Nomination Form

Biala Peninsula Incorporated

I, _____
(name)

of, _____

(address)
being a financial voting member of Biala Peninsula Inc.

hereby nominate _____

being a financial voting member of Biala Peninsula Inc. for election to the office indicated below at the annual general meeting of the club.

Office nominated (please mark one box only)

- President
- Vice-President
- Secretary
- Treasurer
- Board Member

Signature of first nominating member _____

Dated _____

Signature of second nominating member _____

Dated _____

I, the *voting member* nominated above accept the nomination to the position shown above

Signature of nominated member _____

Dated _____

Appendix 3 Form of appointment of proxy

Biala Peninsula Incorporated.

I,

of

being a Member of Biala Peninsula Inc., hereby appoint

of

as my proxy to vote for me on my behalf at the Annual General Meeting/General Meeting* to be held on _____ and at any adjournment of that meeting.

My proxy is authorised to vote in favour of/against (delete as appropriate)

resolution (insert details).

Signed

Date

* delete option not applicable